IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1743 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JEHANGIR TEXTILE MILLS

Versus

SHARDABEN WD/O TEJENDRAPRASAD NARSINHRAO

Appearance:

NANAVATI & NANAVATI for Petitioner No. 1

MR RAJESH P MANKAD for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 18/07/2001

ORAL JUDGEMENT

Rule. With the consent of the parties the matter is taken up for final disposal. The Mill Company has challenged the order passed by the Industrial Court in Appeal (IC) No.7 of 1998 in T. Application No.666 of

1987 dated 21.9.2000. The learned Member of the Industrial Court has rejected the appeal of the Mill Company and has approved the order passed by the Labour Court in T. Application No.666 of 1987 dated 5.1.1998, whereby the application of the workman was accepted and it was ordered that the workman be paid full back wages from the date of termination till 24.3.1993, with all consequential benefits and also cost of Rs.250/-.

2. Mr.Nanavati, learned advocate for the Mill Company pointed out that the Mill Company has received a letter from the Local Officer at Shahpur of ESI Corporation dated 4.3.1991, wherein it is specifically mentioned that the workman, Tejendra Narsi Rao, bearing Insurance No.37/ 1463080, has furnished his year of birth in the Declaration Form as 1930 and that the said fact is stated on the basis of the office record of that particular office. In view of that a contention was raised before the Industrial Court that according to the Mill Company's record, the year of birth of the workman is 1930; therefore, taking into consideration 60 years, the age of superannuation, the same will be over in 1990. It was also contended by the Mill Company before the Industrial Court that upto 31.12.1989 the respondent workman will be entitled for benefits which are ordered by the Labour Court in T. Application No.666 of 1987. But the same cannot be upto 24.3.1993.

3. Mr.Mankad, learned advocate for the respondent workman is not able to point out anything contrary to the letter dated 4.3.1998 of the ESI Corporation. In absence of anything to show that the contents of letter dated 4.3.1998 are not true, the order of the Labour court in T. Application is required to be varied and modified to the extent that the date upto which benefits are ordered to be given cannot be beyond 31.12.1989.

4. In view of that the petition is allowed to that extent. The order of the Labour Court approved by the order of the Industrial Court stand modified to that extent. The petitioner company shall pay dues within four weeks by treating that the Labour Court directed to pay only upto 31.12.1989.

5. The petition is allowed in the above terms. Rule is made absolute to the aforesaid extent only. No order as to costs.

(Ravi R. Tripathi, J.)

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